



February 5, 2003

The Honorable Bob Morton
Chair, Senate Natural Resources,
Energy, and Water Committee
Washington State Senate
PO Box 40466
Olympia, WA 98504-0466

The Honorable Kelli Linville
Chair, House Agriculture and Natural Resources Committee
Washington State House of Representatives
PO Box 40600
Olympia, WA 98504-0600

Subject: Progress Report on Federal Assurances for Forests & Fish

Dear Senator Morton and Representative Linville:

As directed in RCW 77.85.190, I've enclosed our second progress report on the Federal Assurances Project for implementing the Forests & Fish Report as required under the provisions of the Forests Practices – Salmon Recovery Bill (ESHB 2091, 1999 1st special session). I have also provided additional information in the attached brochure, *Forests and Fish Report, At Work – On the Ground*.

Your continued support of Forests & Fish is appreciated. If you have any questions about this project, please don't hesitate to contact me at (360) 902-1603, or Debora Brown Munguia, Federal Assurances Project Manager, at (360) 902-1448.

Sincerely,

A handwritten signature in cursive script, reading "Pat McElroy".

Pat McElroy
Executive Director of Regulatory Programs

Enclosures

Debora Brown Munguia, Federal Assurances Project Manager

DEPARTMENT OF NATURAL RESOURCES

FEDERAL ASSURANCES for FORESTS & FISH

Progress Report

January 31, 2003

As directed in RCW 77.85.190, the following progress report is provided to you regarding the status of obtaining federal assurances for Forests & Fish as required under the provisions of ESHB 2091, 1st special session. The first progress report was submitted in July 2002. This report will cover the last six months of activities.

Background

The Department of Natural Resources (DNR) and the Forests & Fish stakeholders are now actively engaged in obtaining assurances, no later than June 30, 2005, from the federal agencies under the Endangered Species Act (ESA) and the Clean Water Act (CWA), as required by RCW 77.85.190.

The Governor has requested that Doug Sutherland, Commissioner of Public Lands, serve as his designee to negotiate the assurances on behalf of Washington State.

The State has taken the following steps to obtain federal assurances within the timeline specified by the Legislature.

Staffing and Funding

The Federal Assurances Project office was established in May 2002 and staff hires were completed in September 2002.

Funding has been provided to the Departments of Fish and Wildlife and Ecology to fund staff for this project.

The federal agencies have designated staff to assist with this project and have either hired those positions or are in the process of hiring those positions.

Funding has been secured for the first year of the federal assurances project (May 1, 2002 to June 30, 2003). The Salmon Recovery Funding Board has approved \$836,000 to cover the first year of the project.

DNR secured an additional \$1.066 million of federal funds for the second year of the project through a Section 6 grant from U.S. Fish and Wildlife Service (USFWS).

DNR will soon be submitting another application to USFWS for funding the third and final year of the project.

Progress to date

A Federal Assurances Workshop was held on June 20-21, 2002, in Tacoma, Washington. The workshop was the official kick-off for the project and was helpful in energizing and educating Forests & Fish stakeholders and other invited guests as the state begins the formal process of securing federal assurances. Speakers at the conference included

leaders from the State Legislature, Tribal representatives, and federal and state agency leaders.

DNR has collaborated with the federal agencies and agreed upon a workplan to obtain assurances no later than June 30, 2005.

DNR is currently developing a federal assurances plan and accompanying Environmental Impact Statement (EIS). The EIS and assurances plan will allow pursuit of both an Endangered Species Act 4(d) rule limit and a Section 10 Incidental Take Permit. Because a few key components of Forests & Fish Report are not yet implemented (e.g., compliance monitoring, new water typing model), the state will be more successful in first applying for an ESA Section 10 Incidental Take Permit, by way of a Habitat Conservation Plan (HCP). An HCP does not have to be completely implemented prior to receiving a permit. A 4(d) rule limit requires the application to have the complete conservation strategy implemented before receiving any assurances.

The State of Washington will also seek Clean Water Act assurances. There is no specific legal mechanism within the CWA for obtaining federal assurances. However, in delegating the authority to implement the CWA, the Environmental Protection Agency (EPA) has provided Department of Ecology (Ecology) broad latitude and flexibility. It is DNR's intention to work with Ecology and EPA to define the water quality protection measures in the ESA conservation strategy in sufficient detail to satisfy CWA regulatory requirements.

A contract has been executed with Foster Wheeler Environmental Corporation to work on the EIS and assurances plan.

Pursuant to the National Environmental Policy Act, a Notice of Intent will be published in the Federal Register in February. Public comment will be received on the scope and significant issues that should be analyzed in the EIS.

Four public meetings have been scheduled in March, across the state, to receive comments.

Next Steps

Following the public meetings, DNR will prepare and publish a preliminary draft EIS and assurances plan for review and comment by the federal agencies.

Once comments have been received and analyzed, a draft EIS and assurances plan will be produced for broad public review and comment by February 2004.

Following review of public comments, a final EIS and assurances plan will be produced for a final public review/comment period.

Preparation of assurances signature documents is scheduled for early 2005.

Conclusion

DNR will continue to honor legislative direction that the Forests & Fish Report terms are the guiding force of the assurances application package. DNR will continue to use the Forests & Fish Policy Committee as the sounding board if policy issues arise, and continue to work collaboratively with our stakeholders.

DNR will continue to keep the Legislature informed of progress on federal assurances.